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	INL-00	DNI-00	DODE-00	DOTE-00	DS-00	EXIM-01	E-00
	FAAE-00	FBIE-00	VCI-00	FRB-00	H-00	TEDE-00	INR-00
	ITC-01	MOFM-00	MOF-00	VCIE-00	DCP-00	NSAE-00	ISN-00
	NSCE-00	OMB-00	NIMA-00	GIWI-00	ISNE-00	FMPC-00	SP-00
	IRM-00	SSO-00	SS-00	STR-00	TRSE-00	BBG-00	R-00
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C O N F I D E N T I A L LUANDA 000031

E.O. 12958: DECL: 01/21/2020
 TAGS: [AO](#) [ECON](#) [KDEM](#) [PGOV](#) [PINR](#) [PREL](#)
 SUBJECT: UNDER COVER OF A SOCCER TOURNAMENT, NEW
 CONSTITUTION SURGES TO FINISH LINE

REF: A. LUANDA 13
[1](#)B. LUANDA 2

Classified By: ADCM Jason Smith for reasons 1.4 (b) and (d).

1.(C) SUMMARY: Tossing out its own measured timeline for creating a new constitution, the government raced the new constitution through the National Assembly, and gave final approval with 186 out of 220 votes today, January 21. The new constitution is now only a presidential signature away from taking effect. The main opposition party UNITA walked out of the preliminary vote on January 20 and was a no-show for the January 21 final vote, over simmering objections to both the process and content. A review of the draft constitution, first released publicly on January 18, calls for a presidential election system whereby the top candidate on the parliamentary candidate list of the party that receives the most votes in parliamentary elections becomes President. The new constitution will concentrate power in the hands of the President, by eliminating the office of the Prime Minister and replacing it with a Vice President selected by the president after the election, and by granting the President the right to appoint judges, both without approval from the National Assembly. The ruling MPLA has tried to deflect criticism by promising to submit the final constitution to the Constitutional Court for "approval," but in reality that body does not have the authority to make changes or prevent President Dos Santos from signing it into law. Some observers believe the government pushed the new constitution now to take advantage of the distraction created by the football tournament. Although each country has the sovereign right to define its governance structure, the new constitution's focus on increasing even more the president's powers is a step away from the democratic principle of separation of powers. END SUMMARY

2.(U) On January 20, the National Assembly, sitting as the Constitutional Assembly, approved article by article the 244-article document, as recommended by the Assembly's Constitutional Commission (ref A). Protesting both the process and the substance of the new constitution, UNITA walked out of the session, while the other opposition parties stayed. On January 21, the National Assembly sitting in its own right passed the constitution with 186 out of 220 votes, which now awaits only the President's signature to take effect. All UNITA parliamentary members protested the January 21 vote by refusing to show up to the National Assembly.

3.(C) In a January 21 conversation with A/DCM, UNITA Party Leader Isaias Samakuva was resigned that UNITA had "exhausted all democratic options" to protest what it saw as repeated violations of "procedural norms for constitutional review" under Articles 153-157 of Angola's existing Constitution Law. Samakuva stated that UNITA had appealed to the Constitutional Court last fall and claimed that the Court had

validated UNITA's concerns, but that it needed to receive the appeal from the National Assembly before it could take action. Samakuva stated that subsequent written requests to both the Speaker of the National Assembly and the Attorney General went unanswered. He noted the MPLA's disingenuous attempt to deflect criticism over the speed of the process by promising to send the final constitution to the Constitutional Court for "approval," by explaining that the Court at this point could offer an opinion only and could not approve or reject the final constitution. (NOTE Post confirmed this limited role of the Court, post National Assembly passage, via a constitutional scholar.) On next steps, Samakuva believed the four remaining mechanisms of appeal were all "closed doors," (i.e. the National Assembly, President Dos Santos, Prime Minister KASSOMA, and the Attorney General), and would not attempt any of them. Instead, he waxed philosophic, noting that this was just another hardship in a long history of hardships that UNITA would eventually overcome. The party's strategy now, according to Samakuva, would be to regroup, and educate people at the grass-roots level on democracy and governance, so "the next generation of Angolans would not be fooled."

4.(U) In a statement by Alda Sachiambo, leader of the UNITA parliamentary group, at the opening of the January 20 Special Session of the National Assembly, UNITA underscored its position that the National Assembly is constrained by existing law in shaping the new constitution. UNITA defined the limitations as follows:

- the land is the right of the people;
- the national symbols (meaning flag, anthem and emblem) must represent the democratic government of Angola, not the government from the era of the single-party state;
- the people have the right to elect the president through direct suffrage using a specific ballot that is to be deposited in a specific ballot box;
- the constitution must observe without subterfuge or ambiguity the principals of direct election and of separation of powers, per Article 159 of the Constitutional Law; and
- the National Assembly does not have the power to legitimize the political power of the sitting president beyond the law and the national will.

The UNITA leader asked rhetorically if the majority has the power to exercise it without constraint, then where is ability to keep the majority from eliminating democracy itself?

5.(U) Some key features of the draft text provided publically on January 18 includes: a limit of two five-year terms for the President; indirect election of the President via a party list (i.e. the head of that party's list which receives the most votes becomes President); abolition of the Prime Minister and creation of a Vice President chosen by the President, without consent of the National Assembly, after his/her election; state control of the land, with concessions granted only by the state and only to Angolan nationals or entities; the President appoints judges to the Constitutional and Supreme courts, as well as the Court of Audits, all without review or consent of the National Assembly; retroactive application of the constitution, and the powers thereof, to the current sitting President of Angola, and maintaining the current national flag, which is similar in appearance to the MPLA party flag.

16. (U) On January 20, a group of civil society organizations released a statement, declaring that the government's acceleration of the constitution process violated the rights of the citizens and was disrespectful of the basic norms of political ethics. The statement points out that the Constitutional Commission's announced timetable for the new constitution included a period (January 5 - February 20, 2010) for public review and comment on the draft and a period (February 21 - March 22, 2010) for discussion and voting by the National Assembly. The statement adds that the text of the draft document first became publicly available on January

18, as a supplement in the Jornal de Angola. The Assembly started voting on the document on January 20, and, as a result, the government's own timeline for the constitutional process was ignored.

17. (C) COMMENT: The rationale behind Dos Santos's decision to violate the government's own widely published and measured timeline for the constitutional process is unclear. Some argue that he wanted to conclude the process while everyone was preoccupied with the Africa Cup of Nations football tournament, which Angola is hosting. Others argue that the President is eager to put into place a new, supposedly much reduced new government. Whatever the rationale, this dramatic acceleration of the process in fact has denied Angolans an opportunity to engage in the process during the final stages. Once the football stadiums have fallen silent, more Angolans will come to realize that they have been left out of the constitutional process, a reality that has already displeased some Angolans. Regardless of the opinion of the Constitutional Court, should the National Assembly choose to forward the final constitution to it, the President is expected to sign the new constitution into law. Meanwhile, post has provided Af/S draft press guidance.

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